

California Water Plan Update 2018 Plenary: Water Law Cases to Remember from the Summer of 2018

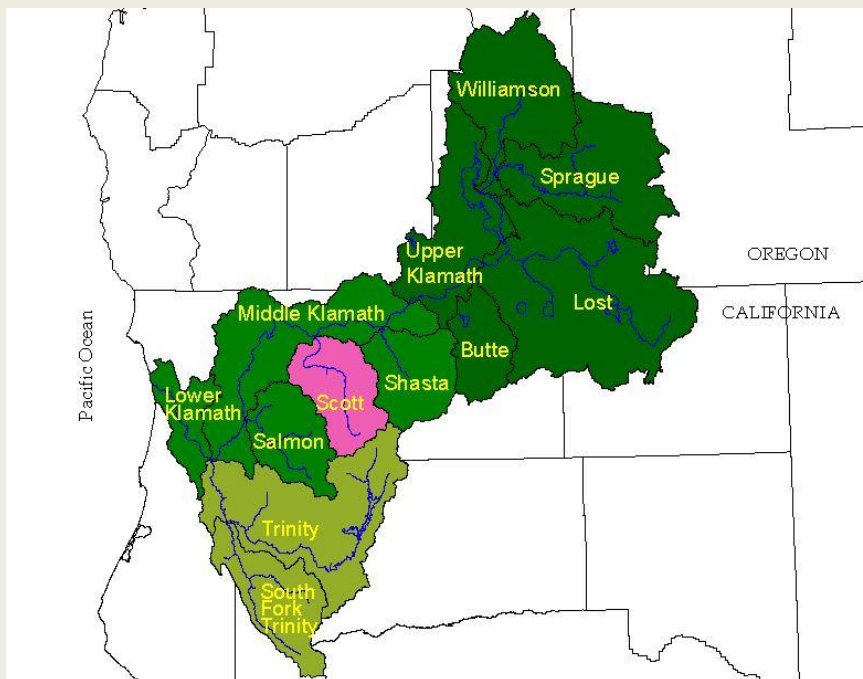


West Sacramento CA
October 9, 2018
David Sandino
DWR Staff Counsel



Environmental Law Foundation v. SWRCB

Third District Court of Appeal (August 2018)

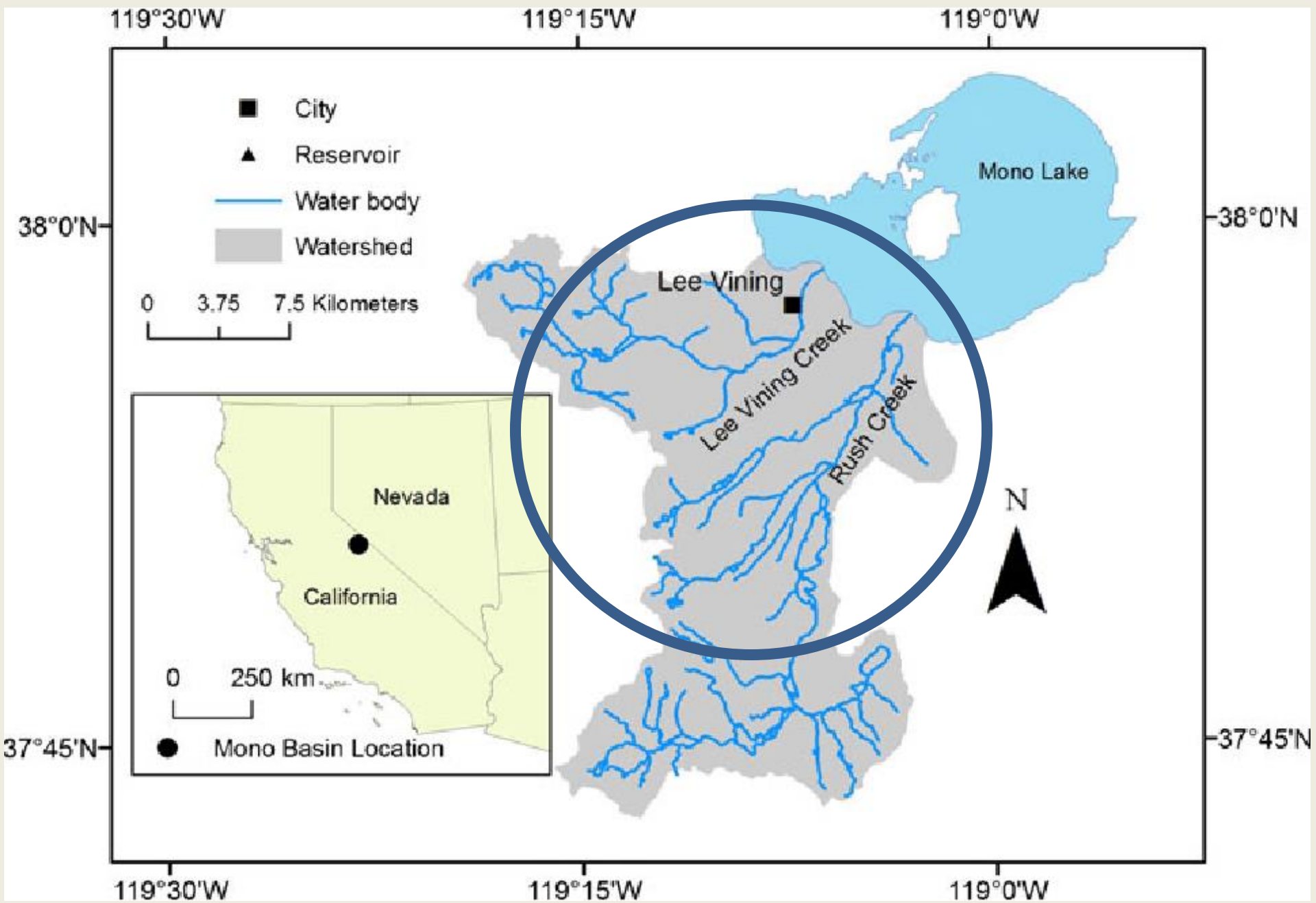


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The Public Trust Doctrine

- Served as a limitation on state government from divesting itself of lands under navigable surface waters and tidal areas (*Illinois Central Railroad Co. v. Illinois* (1892) 146 U.S. 387)
- Served as a means to protect the public interest in navigation, fishing, commerce, and recreation in surface waters
- Later expanded to protect environmental and scenic values

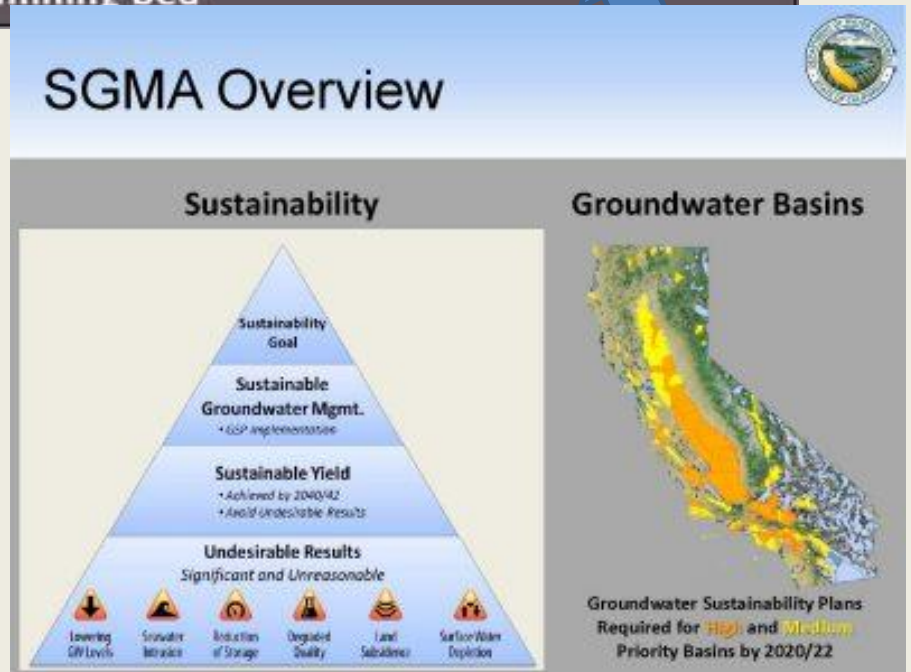
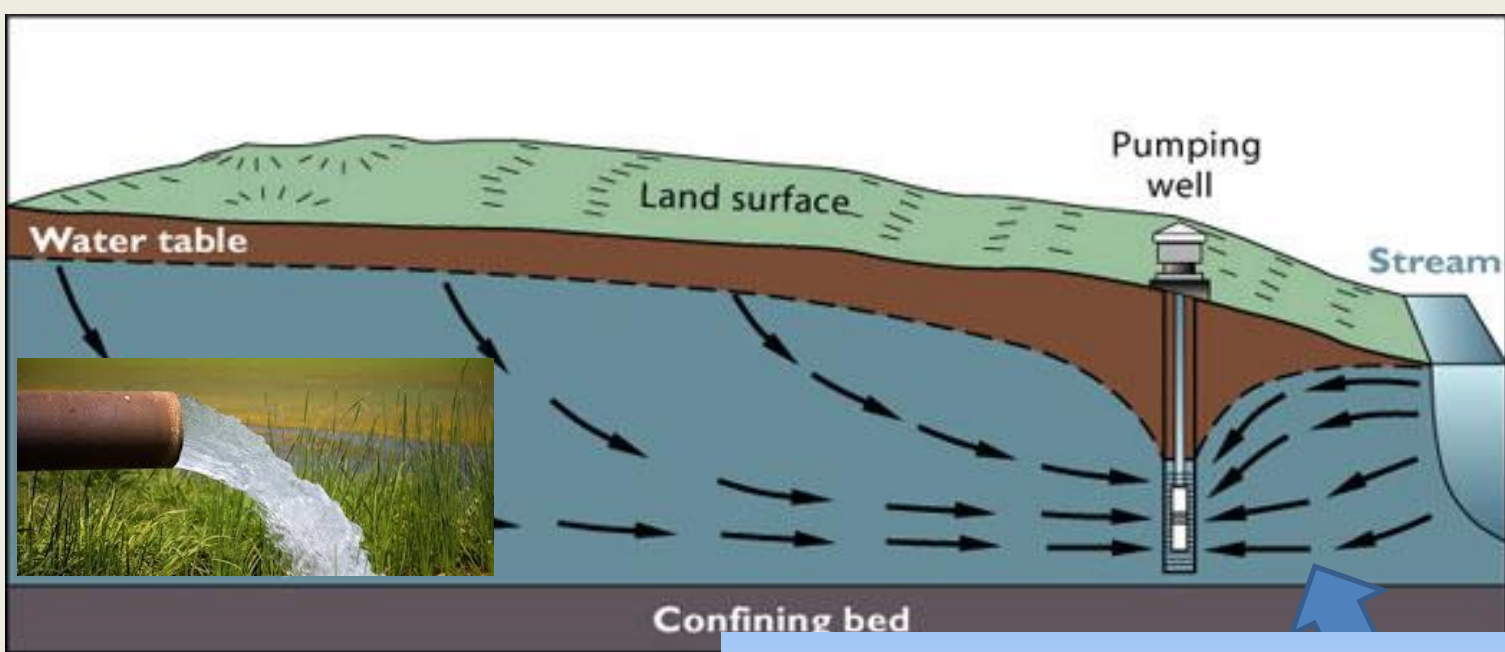




Integration of Public Trust Doctrine with the Appropriative System

- The California Supreme Court integrated the public trust doctrine and the appropriative system (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419)
- Must be considered during permit process
- May be reviewed again after an appropriative permit is issued
- Balanced with other values





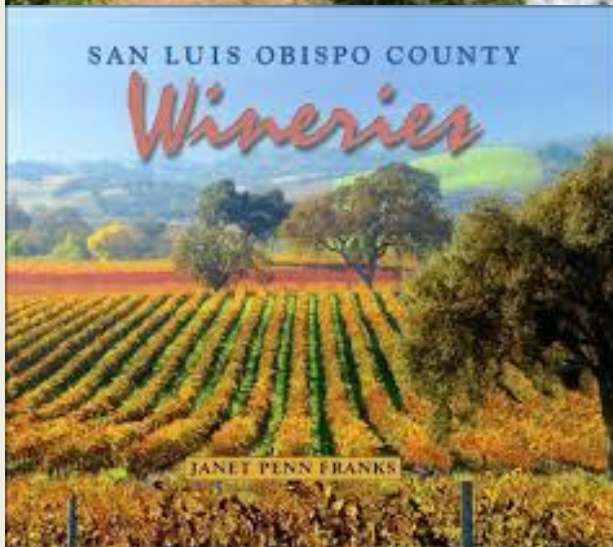
Restore Hetch Hetchy v. City and County of San Francisco California Court of Appeal (August 2018)



Hetch Hetchy Valley 1908. Photo by Isaiah West Taber.



California Water Impact Network v. County of San Luis Obispo California Court of Appeal (July 2018)



Types of Duties

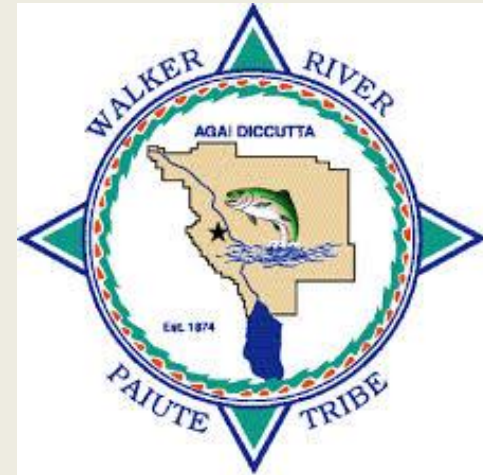
- **Ministerial duties**
 - Nothing is left to discretion
 - Imposed by law and generally administrative in nature





Walker River Cases Trilogy

9th Circuit
May 2018



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